

1 BILL NO. S-86-07-13

2 SPECIAL ORDINANCE NO. S-

3 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE  
4 TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND,  
5 (WILLIAM P. BAER PROJECT)"  
6 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

7 WHEREAS, the Fort Wayne Economic Development Commission  
8 has rendered its Project Report for the William P. Baer Project  
9 regarding the financing of proposed economic development facilities  
10 for William P. Baer and the Fort Wayne Plan Commission has commented  
11 favorably thereon; and

12 WHEREAS, the Fort Wayne Economic Development Commission  
13 conducted a public hearing on July 17, 1986, which Resolution has  
14 been transmitted hereto, finding that the financing of certain eco-  
15 nomic development facilities of William P. Baer complies with the  
16 purposes and provisions of I.C. 36-7-11.9 and 12 and that such  
17 financing will be of benefit to the health and welfare of the City  
18 of Fort Wayne and its citizens; and

19 WHEREAS, the Fort Wayne Economic Development Commission has  
20 heretofore approved and recommended the adoption of this form of  
21 Ordinance by this Common Council, has considered the issue of  
22 adverse competitive effect and has approved the forms of and has  
23 transmitted for approval by the Common Council the Loan Agreement,  
24 and Mortgage, Note, Bond Purchase Agreement and Lease; now there-  
25 fore,

26 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
27 WAYNE, INDIANA, THAT:

28 SECTION 1. It is hereby found that the financing of the  
29 economic development facilities referred to in the Loan Agreement,  
30 and Mortgage approved by the Fort Wayne Economic Development  
31 Commission and presented to this Common Council, the issuance and  
32 sale of a revenue bond, the loan of the proceeds of the



1 revenue bond to William P. Baer (the "Developer") for the acquisi-  
2 tion of such facilities, the payment of the revenue bond by the note  
3 payments of the Developer under the Loan Agreement and Mortgage  
4 and Note, the leasing of such facilities to Indiana Coatings Corp.  
5 under the Lease, and the securing of said bond by the mortgaging of  
6 such facilities to the Bondholder complies with the purposes and  
7 provisions of I.C. 36-7-11.9 and 12 and will be of benefit to the  
8 health and welfare of the City of Fort Wayne and its citizens.

9 SECTION 2. The economic development facilities will con-  
10 sist of the acquisition and construction of an approximate 50,000  
11 square foot manufacturing facility, to be used in the production of  
12 high corrosion resistant finish, to be located at 4301 Engle Road,  
13 in Fort Wayne, Indiana. The Developer will lease such facilities to  
14 Indiana Coatings Corp. (the "Project").

15 SECTION 3. At the public hearing held by the Fort Wayne  
16 Economic Development Commission, the Commission considered whether  
17 the economic development facilities would have an adverse com-  
18 petitive effect on any similar facilities located in or near the  
19 City of Fort Wayne, and found, based on special findings of fact set  
20 forth in the Resolution transmitted hereto, that the facilities  
21 would not have an adverse competitive effect. This Common Council  
22 hereby confirms the findings set forth in the Commission's  
23 Resolution, and concludes that the economic development facilities  
24 will not have an adverse competitive effect on any other similar  
25 facilities in or near the City of Fort Wayne, and the facilities  
26 will be of benefit to the health and welfare of the citizens of the  
27 City of Fort Wayne.

28 SECTION 4. The substantially final forms of the Loan  
29 Agreement and Mortgage, Note, Bond Purchase Agreement and Lease  
30 approved by the Fort Wayne Economic Development Commission are  
31 hereby approved (herein collectively referred to as the "Financing  
32 Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing



1 Agreement shall be incorporated herein by reference and shall be  
2 inserted in the minutes of the Common Council and kept on file by  
3 the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two  
4 (2) copies of the Financing Agreement are on file in the office of  
5 the Clerk for public inspection.

6 SECTION 5. The City of Fort Wayne shall issue its Economic  
7 Development Revenue Bond, (William P. Baer Project), in a principal  
8 amount not to exceed Nine Hundred Twenty-five Thousand Dollars  
9 (\$925,000) pursuant to this election to do so under Section  
10 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended, and  
11 maturing ten years from the date of the first principal payment.  
12 Said bond is to be issued for the purpose of procuring funds to pay  
13 the costs of acquisition and construction of the economic develop-  
14 ment facilities as more particularly set out in the Bond Purchase  
15 Agreement and Loan Agreement and Mortgage, incorporated herein by  
16 reference, which bond will be payable as to principal, premium, if  
17 any, and interest from the note payments made by the Developer under  
18 the Loan Agreement and Mortgage and Note or as otherwise provided in  
19 the above described Bond Purchase Agreement. The bond shall be  
20 issued in fully registered form in the amount of \$925,000 and shall  
21 be redeemable as provided in Article V of the Bond Purchase  
22 Agreement. Payments of principal and interest are payable in lawful  
23 money of the United States of America at the principal office of the  
24 Bondholder or by check or draft mailed or delivered to the  
25 Bondholder as provided in the Bond Purchase Agreement. The bond  
26 shall never constitute a general obligation of, an indebtedness of,  
27 or a charge against the general credit of the City of Fort Wayne,  
28 nor is the bond payable in any manner from revenues raised by taxa-  
29 tion.

30 SECTION 6. The Mayor and Clerk are authorized and directed  
31 to sell such bond to the purchaser thereof at a rate of interest per  
32 annum on the bond not to exceed 75% of the fluctuating rate per



1 annum publicly announced by Michigan National Bank of Detroit,  
2 Michigan, as its prime rate, as in effect at its principal office,  
3 (except, (i) in the event interest on the bond becomes taxable due  
4 to a Determination of Taxability, as defined in the Loan Agreement  
5 and Mortgage, the interest on the bond will increase to the Taxable  
6 Rate, as defined in the Loan Agreement and Mortgage, and (ii) the  
7 interest rate on the bond may be adjusted as set forth in the Loan  
8 Agreement and Mortgage as the result of certain yield affecting  
9 events); and at a price of not less than 100% of the principal  
10 amount thereof.

11 SECTION 7. The Mayor and Clerk are authorized and directed  
12 to execute, attest, affix or imprint by any means the City seal to  
13 the documents constituting the Financing Agreement approved herein  
14 on behalf of the City and any other document which may be necessary  
15 or desirable to consummate the transaction, including the bond  
16 authorized herein. The Mayor and Clerk are hereby expressly  
17 authorized to approve any modifications or additions to the docu-  
18 ments constituting the Financing Agreement which take place after  
19 the date of this Ordinance with the review and advice of the City  
20 Attorney; it being the express understanding of this Common Council  
21 that said Financing Agreement is in substantially final form as of  
22 the date of this Ordinance. The approval of said modifications or  
23 additions shall be conclusively evidenced by the execution and  
24 attestation thereof or the imprinting of the seal thereon; provided,  
25 however, that no such modification or addition shall change the  
26 maximum principal amount of, interest rate on or term of the bond as  
27 approved by the Common Council by this Ordinance without further  
28 consideration by the Common Council. The signatures of the Mayor  
29 and Clerk on the bond may be either manual or facsimile signatures.  
30 The Clerk is authorized to arrange for delivery of such bond to the  
31 Bondholder named in the Bond Purchase Agreement, and payment for the  
32 bond will be made to the Bondholder named in the Bond Purchase



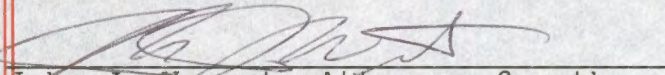
1 Agreement. The Mayor and Clerk shall execute and the Clerk shall  
2 deliver the bond to the Bondholder within ninety days of the adop-  
3 tion of this ordinance. The bond shall be originally dated as of  
4 July 1, 1986, but shall have as an issue date the date of Delivery  
5 to the Bondholder.

6 SECTION 8. The provisions of this Ordinance and the Bond  
7 Purchase Agreement securing the bond shall constitute a contract  
8 binding between the City of Fort Wayne and the holder of the  
9 Economic Development Revenue Bond, (William P. Baer Project), and  
10 after the issuance of said bond, this Ordinance shall not be  
11 repealed or amended in any respect which would adversely affect the  
12 rights of such holders so long as said bond or the interest thereon  
13 remains unpaid.

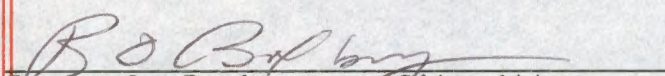
14 SECTION 10. This Ordinance shall be in full force and  
15 effect from and after its passage and signing by the Mayor.

16   
17 COUNCILMAN

18 ADOPTED BY ECONOMIC DEVELOPMENT  
19 COMMISSION AND APPROVED AS TO FORM.

20   
21 John J. Wernet, Attorney for the  
Economic Development Commission  
Dated this 1<sup>st</sup> day of July, 1986.

22 APPROVED AS TO FORM AND LEGALITY

23   
24 Bruce O. Boxberger, City Attorney  
25 Dated this 1<sup>st</sup> day of July, 1986.



Read the first time in full and on motion by GiaQuinta, seconded by Bradbury, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M., E.S.

DATE: 7-22-86

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by GiaQuinta, seconded by Bradbury, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>      </u>	<u>      </u>	<u>1</u>	<u>      </u>
<u>BRADBURY</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>✓</u>	<u>      </u>
<u>BURNS</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>EISBART</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>GiaQUINTA</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>HENRY</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>REDD</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>SCHMIDT</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>STIER</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>TALARICO</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

DATE: 8-12-86

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 8-127-86

on the 12th day of August, 1986,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of August, 1986, at the hour of 11:30 o'clock PM .M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of August, 1986, at the hour of 10 o'clock A .M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



BILL NO. S-86-07-13

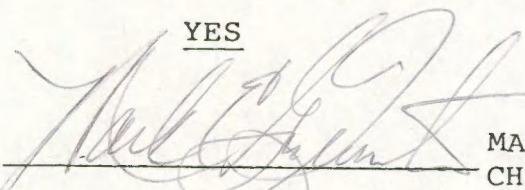
REPORT OF THE COMMITTEE ON FINANCE


WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS  
REFERRED AN (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) AUTHORIZING THE CITY OF FORT  
WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND, (WILLIAM P.  
BAER PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

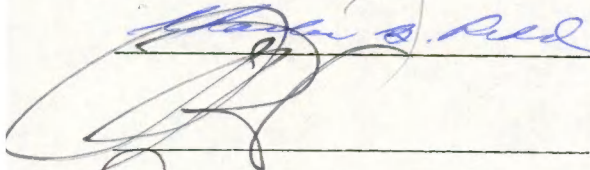
HAVE HAD SAID (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(~~XXXXXXXXXX~~ (RESOLUTION))

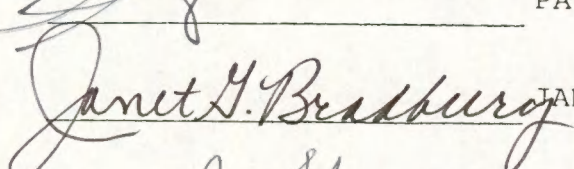
YES

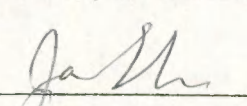
NO

  
MARK E. GiaQUINTA  
CHAIRMAN

  
CHARLES B. REDD  
VICE CHAIRMAN

  
PAUL M. BURNS

  
JANET G. BRADBURY

  
JAMES S. STIER

CONCURRED IN 8-12-86

SANDRA E. KENNEDY  
CITY CLERK